

Article 2: Public Rights-of-Way and Land Development**Division 2: Public Improvements and Public Rights-Of-Way**

*("Qualifications Required For Persons Doing Work
in the Public Right-of-Way"*

added 11-27-1956 by O-7229 N.S.)

(Retitled to "Qualifications Required For

Persons Constructing Public Improvements

*or Encroachments in the Public Rights-of-Way
and/or Developing Land" on 9-20-1960 by O-8354 N.S.)*

(Repealed 8-17-1971 by O-10660 N.S.)

("Public Improvements and Public Rights-of-Way"

added 8-17-1971 by O-10660 N.S.)

§62.0201 Standards for Public Improvement Work

All public improvement work shall be done in accordance with the prevailing standards of The City of San Diego; provided, however, that in Centre City said prevailing standards for sidewalks, light standards and street landscaping shall be as specified by the Urban Design Program.

(Retitled to "Standards For Public Improvement Work" (formerly Sec. 62.0202) and amended 11-5-1984 by O-16316 N.S.)

§62.0202 Major Public Improvement Permit

A major public improvement permit shall be required for the following types of work:

- (a) The work being proposed is not covered by the provisions of this Article.
- (b) The work involves more than 3,000 feet of property frontage.

An application for a major public improvement permit may be approved, conditionally approved or denied by the City Council in accordance with "Process Five", except no Planning Commission recommendation is required. The Permit Issuing Authority shall submit the applications, together with his recommendations thereon, to the City Manager for presentation to the City Council. Other public improvements may be approved or denied in accordance with "Process One" by the Permit Issuing Authority.
(Retitled to "Major Public Improvement Permit" and amended 11-23-1992 by O-17864 N.S.)

§62.0203 Public Improvement Subject to Desuetude or Damage

- (a) Where, in the course of development of private property, public improvements are damaged, removed, disconnected or dislocated, the property owner shall, at no cost to the City, repair or replace such public improvements to the satisfaction of the Permit Issuing Authority.
- (b) Where, in the course of development of private property, a driveway is abandoned and is no longer suited for vehicular use, the property owner shall remove the depressed curb section and apron and restore the right-of-way to the standards normally required.
- (c) The Permit Issuing Authority shall notify the property owner in writing of such desuetude or damage, and the property owner shall take corrective action within 30 days of receipt of such notice. There shall be no certification as to the completion of a building or other permitted work where a notice has been issued, and corrective action has not been taken.

(Amended 10-1-1990 by O-17534 N.S.)

§62.0204 City Streets— Painting, Disfiguring Prohibited

Unauthorized persons shall not paint, daub sticky substance, deface, mar or place any sign or advertisement upon any public property, public street or part thereof.

(Retitled to "City Streets— Painting, Disfiguring Prohibited" (formerly Sec. 62.0205) and amended 11-5-1984 by O-16316 N.S.)

§62.0205 Acceptance of Dedications

No reservation for public rights-of-way shall be offered for dedication unless such offer includes the necessary slope easements required for the ultimate development of the right-of-way, and no such reservation shall be accepted for dedication by the City until improvements therein are constructed pursuant to the requirements of this Code.

The City Engineer, or other designee of the City Manager, may accept on behalf of the City Council streets and roads, or portions thereof, into the City street system and record conveyances to the City of real property interests for street and road uses and purposes. No street shall be accepted into the City street system and open to public use until improvements are constructed pursuant to the requirements of this Code.

(Amended 1-9-1995 by O-18135 N.S.)

§62.0206 Public Improvements Incidental to a Building Permit or Structure

- (a) No building or structure shall be erected or enlarged, and no building permit shall be issued therefor, unless the streets and alleys adjacent to such lot have been dedicated and improved along the abutting frontage to the then prevailing standards of The City of San Diego; provided, however, that in Centre City said prevailing standards shall be supplemented by the standards of the Urban Design Program. (San Diego Municipal Code section 62.0102.)

Street improvements shall include but not be limited to curbs, gutters, sidewalk, pedestrian access ramps, and half width paving. Alley improvements shall consist of full width paving. Where such improvements do not exist or are not to the prevailing standard, a building permit may, nevertheless, be issued under any of the following circumstances after any needed dedication has been granted:

- (1) When a permit for the required improvements has been issued in accordance with the provisions of this Code, provided, however, that the public improvements covered by such permit shall be installed and accepted prior to final inspection by the Building Official of the structure permitted under the building permit.
- (2) When improvements constructed to less than the prevailing standard exist and the Permit Issuing Authority finds that they are in substantial conformance with the requirements of this section.
- (3) When the Permit Issuing Authority determines that the amount of work associated with the requested building permit is of such limited scope that it should be deferred until such time as adjacent improvements are installed.

Whenever it is determined that the abutting public improvements are to be deferred, no building permit shall, nevertheless, be issued until the property owner executes a waiver of his, or any successor is in interest, right to protest a future assessment project for installation of the required improvements, said waiver to be recorded against the property on which the building permit is issued.

- (b) The provisions of section 67.0206 shall not apply to:

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- (1) The construction of accessory buildings such as residential garages.
- (2) The construction of accessory structures such as swimming pools or patio decks.
- (3) The alteration of an existing single family residence.
- (4) The alteration of existing buildings, other than a single family residence, where the proposed improvements have a total value, as estimated by the Building Official of \$50,000 or less, except that in Centre City the value threshold shall be \$250,000.
- (5) Neighborhood revitalization projects operated by the City Housing Commission.

(Amended 4-1-1996 by O-18279 N.S.)

§62.0207 Public Improvements Incidental to a Building or Structure in Centre City

- (a) No building or structure shall be erected or enlarged, and no building permit shall be issued therefor, within Centre City, unless the streets adjacent to such lot are improved along the abutting frontage to the standards prescribed by the Urban Design Program (San Diego Municipal Code section 62.0102), said improvements including but not limited to:
 - (1) Specialized light standards.
 - (2) Specialized sidewalk pavement.
 - (3) Street landscaping.

The specialized light standards, specialized sidewalk pavement, and street landscaping referred to herein shall be considered as public improvements and shall be maintained by an assessment district established for that purpose pursuant to Division 15, Part 2 of the California Streets and Highways Code and Section 65.0201 of this Municipal Code.

- (b) Where such improvements do not exist or are not to the standard of the Urban Design Program (San Diego Municipal Code section 62.0102), a building permit may, nevertheless, be issued under any of the following circumstances after any needed dedication has been granted:

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- (1) When a permit for the required improvements has been issued in accordance with the provisions of this Code.
- (2) When improvements constructed to a lesser or different standard than those specified by the Urban Design Program exist and the City Engineer finds that they are in substantial conformance with the requirements of this section.
- (3) The Permit Issuing Authority determines that the amount of work associated with the requested building permit is of such limited scope that it should be deferred until such time as adjacent improvements are installed.

Whenever it is determined that the abutting public improvements are to be deferred, no building permit shall, nevertheless, be issued until the property owner executes a waiver of his or any successor in interest's right to protest a future assessment project for installation of the required improvements; said waiver to be recorded against the property on which the building permit is issued.

- (c) The provisions of this section shall not apply where the proposed building improvements have a total value, as estimated by the Building Official, of \$250,000 or less.

(Amended 10-1-1990 by O-17534 N.S.)

§62.0208 Cost Reimbursement District Procedural Ordinance

- (a) Purpose and Intent.

In the course of the development of properties, whether through the subdivision process or the development or redevelopment of previously subdivided properties, it is frequently necessary or desirable to require the Developer to install certain Public Improvements, which improvements exceed in size, capacity or number that which is normally required to benefit the development or which are located off-site of the development and which benefit property or properties not within the subdivision or development and which improvements are dedicated to the public. It is the purpose of the "Cost Reimbursement District Procedural Ordinance" (Ordinance) to establish requirements and procedures for reimbursement to either the Developer or City, or both, by those property owners who subsequently benefit from these improvements to the extent of their benefit. It is the intent of the Council that

all property owners who subsequently benefit from the Public Improvements, make the appropriate reimbursements to the Developer or City, or both. A Reimbursement District may be formed prior to or concurrent with the construction of the improvements. The formation of a Reimbursement District will not be available to the Developer if construction is substantially complete. It is further the intent of the Council that this Ordinance shall be supplemental to the reimbursement procedures set forth in the California State Subdivision Map Act (Government Code section 60410 et seq.) (the Act), and any other provisions of this Municipal Code.

(b) Nature of Improvements.

The Act provides in Sections 66485 and 66486 for the adoption of a local ordinance which establishes requirements and procedures for reimbursement. The Act also requires the City to enter into an agreement with the Developer to reimburse the Developer for that excess portion of the costs attributable to improvements which are supplemental in size, capacity, number, or length for the benefit of property or properties located outside the development area. The Street Superintendent shall determine the area of benefit and establish reimbursement charges based on benefit as provided in this Ordinance.

(c) Definitions.

- (1) "Actual or estimated cost of Public Improvements" means the actual or estimated costs for the construction, engineering, district formation, right-of-way, condemnation proceedings, mitigation or any other expense incidental to the construction of improvements.
- (2) "Substantial completion of a facility" means construction of a facility which has progressed sufficiently so that the facility can be used for the purpose for which it was intended.
- (3) "Benefitted Area" means the entire area which receives a benefit from the Public Improvement.
- (4) "Developer" means the person who is responsible for constructing the Public Improvement.
- (5) "Street Superintendent" means the person whose duty it is under the law to have the care or charge of the streets or the improvement thereof in the City.

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- (6) "Excess Costs" means the costs attributable to the improvements which benefit areas outside the development area.
 - (7) "Public Improvements" means those improvements described in this Ordinance, including, but not limited to, streets (access or major thoroughfare), bridges, traffic signals, drainage, water or sanitary sewer facilities, other public facilities such as parks and libraries, and any accessory improvements necessary to the functioning of the Public Improvements. "Public Improvements" do not include any improvements that will benefit only the development in which they are located. The term "Public Improvements" may also be treated as including the cost of acquisition of any necessary land or right-of-way for the construction of the improvement.
 - (8) "Reimbursement District" means the Benefitted Area within which property is subject to a reimbursement charge for the purpose of reimbursing the Developer or City, or both, for the Excess Costs of the public improvement.
 - (9) "Resolution of Lien" means the resolution passed by the Council establishing the amount of charges due from each parcel within a Reimbursement District established pursuant to Section 62.0208(j) of this Ordinance.
- (d) Request For Reimbursement Agreement.

The Developer may request the Council or the Council on its own volition may initiate the formation of a Reimbursement District: (1) whenever a Developer elects or is required by the City to install or replace improvements which are in excess of those improvements required to accommodate the development and which the City Council determines to benefit property other than that of the Developer; or (2) whenever the City participates in the costs of improvements which the City Council determines will be of benefit to property other than, or in addition to, the Developer's property; provided that the costs of the facilities constructed by the Developer are not later reimbursed through an assessment under a Public Improvement District. The request of the Developer shall be in writing and submitted to the Street Superintendent with a completed application and an application fee. The Street Superintendent shall expeditiously process the request to the City Council.

(e) Costs of Formation of Reimbursement District.

Before the Council authorizes initiation of the formation of a Reimbursement District, the Developer shall deposit with the City the following fees to cover various administrative costs.

(1) Application fee.

An application fee, which shall be set by City Council resolution, shall be deposited in a general cost reimbursement district administration fund established by the City Auditor and Comptroller. The application fee and all administrative fees shall be deposited in the appropriate funds established by City Council for each district.

(2) Administrative Fees.

An administrative fee, which shall be set by Council resolution, shall cover administrative expenses, such as the calculation of the Excess Costs of the facilities, determination of the Benefitted Area, determination of the proposed spread of the Excess Costs to the benefitting parcels, accounting of funds, and time to conduct an audit. Administrative fees shall also cover the costs of publishing all notices and mailings and shall cover County Recorder and similar costs.

(3) Engineering Service Costs

In those situations where an excessive amount of time and labor would be involved in the preparation of documents and estimates, the City Engineer may request that special engineering services be retained to expedite and facilitate the preparation of the documents and estimates. This retained engineer shall have no contractual relationship with the Developer. The costs of any such engineering service shall be paid by the Developer; however, the costs shall be considered an incidental cost of the improvements to be recouped pursuant to the provisions of the Reimbursement District.

(f) Council Action on Request.

After considering the Developer's request or upon the recommendation of the City Manager, the City Council in its sole discretion may direct the City Manager to begin the proceedings for the formation of a Reimbursement

District.

- (g) Costs for monitoring the Reimbursement District.

Three weeks prior to the noticed public hearing described in Section 62.0208(i), the Developer shall deposit with the City such additional funds in the project monitoring fund as the Street Superintendent determines may be required. If the Reimbursement District is formed by the City Council, these funds shall be used to cover the costs of annually monitoring the Reimbursement District for the life of the District. If funds from the deposit become depleted below fifty percent (50%) of the original deposit amount, the City may require an additional amount be withheld from any lien payments to replenish the fund to an appropriate level. In the event that the Reimbursement District is fully built out prior to the expiration of the District, a pro rated refund will be made along with the final reimbursement.

- (h) Estimate Of the Street Superintendent.

Pursuant to the direction of the City Council and after consultation with the Developer, the Street Superintendent shall prepare and file with the City Clerk:

- (1) A plat indicating the boundaries of the Reimbursement District which identifies all parcels within the District.
- (2) The actual or total estimated cost of the Public Improvements.
- (3) An estimate of the assessment and spread necessary to equitably pay the Excess Costs.

- (i) Notice and Hearing on Establishment of Reimbursement District.

- (1) Upon receiving the request from the Street Superintendent, the City Clerk shall set a noticed public hearing before the City Council.
- (2) The City Clerk shall cause a notice of the hearing, in substantially the following form, to be published once in a newspaper of general circulation in the City at least ten (10) calendar days prior to such hearing:

NOTICE OF HEARING

1. The City Council of The City of San Diego will hold a public hearing at _____ on _____ at the City Council Chambers on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California, 92101 to consider the establishment of a reimbursement district for the financing of certain public facilities and related improvements within the City otherwise known as the Cost Reimbursement District No. (_____).

Your property is located within the proposed boundaries of the cost reimbursement district and may be subject to a fee to pay a portion of the cost of providing such facilities. If, within a 20-year period from the date of forming this district, you either file a final map, are issued a building permit for improvements which will ultimately utilize the cost reimbursement improvements, or are issued a building permit for improvements valued in excess of \$20,000, the fee would become due and payable. The boundaries of the district are more particularly described by Plat No. () which is on file in the Office of the City Clerk.

All persons desiring to testify with respect to: the necessity of said public improvements, the cost of said public improvements, the benefitted area or the amount of the costs eligible to be recovered, may appear and be heard at this hearing.

2. The Street Superintendent shall, at least twenty (20) days prior to the hearing, cause a copy of the above notice to be mailed to each owner of real property within the benefitted area as shown on the last equalized tax roll. The notice shall be accompanied by a map of the proposed benefitted area and a statement by the Street Superintendent describing:

- a. A brief description of the public improvements and that portion considered to be in excess of the developer's requirements which benefits other properties.
- b. The estimated or actual costs necessary to pay for the public improvements.
- c. The estimated or actual costs which are proposed to be assessed against the benefitting property when the property is developed/redeveloped.
- d. A plat, indicating the boundaries of the district.

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(j) Action by City Council.

After the public hearing, the City Council may in its sole discretion approve a resolution establishing the district as well as enter into a reimbursement agreement with the Developer to provide for the disbursements of proceeds of the district.

If the scope of the project or nature of the work is altered during construction, the City Council may increase the estimated cost by not more than fifteen (15) percent without further notice to the affected property owners.

The Benefitted Area shall be that area which, upon the recommendation of the Street Superintendent and after a noticed public hearing, in the opinion of the City Council is determined to be the area benefitted by the construction of the Public Improvements.

Benefit may be obtained by frontage, proximity to the improvements, release of anticipated subdivider/building responsibilities or other such means as determined by the Street Superintendent. The resolution establishing the Reimbursement District shall indicate it is a "Resolution of Lien." The resolution shall reference an exhibit containing the following:

- (1) A list of the properties, identified by assessor's parcel number and ownership of record, which are included within the Reimbursement District boundaries.
- (2) A plat, indicating the boundaries of the Reimbursement District and identifying the properties assessed.
- (3) An apportionment of the Excess Costs which represent the actual or estimated fee to be charged each parcel within the Reimbursement District. If the costs are estimated, the resolution shall indicate that the fees are subject to recomputation by the Street Superintendent when the construction and final audit have been completed.
- (4) The time when the assessed fees are due and payable.
- (5) Other matters as appropriate to the establishment and administration of this Reimbursement District.

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The reimbursement agreement with the Developer shall contain provisions necessary and appropriate to the procedures and terms for the reimbursements.

The charges against each parcel within the Reimbursement District shall be subject to an annual six (6) percent simple interest payable at the time fees are paid and the lien released.

Once the allocation of the cost has been approved by a resolution of the City Council, the "Resolution of Lien" shall constitute a statement of charges due from the owners and their successors, heirs or assigns of the various parcels of property as their benefitted share of the Public Improvements.

Subsequent to the construction of the Public Improvements, the Street Superintendent shall respread the lien after final costs have been calculated and verified by an audit, and shall cause the lien roll to be appropriately modified. All affected property owners shall be notified in writing of their final lien amount.

The Street Superintendent shall record a copy of the Council "Resolution of Lien" with the County Recorder. Upon payment of the amounts due, or upon the expiration of the Reimbursement District, the Street Superintendent shall cause to be filed a release of lien upon the property or properties affected.

(k) Limitations on Reimbursement Agreement.

The reimbursement agreement shall indicate that the liens are subject to an annual six (6) percent simple interest charge and shall be payable to the City during the term of the agreement. Lien payments shall be placed by the City in the appropriate funds established by Council for each Reimbursement District. These funds will be established to reimburse the Developer for costs incurred for the construction of the improvements. Accrued interest during period money was deposited with City shall be transferred to the project monitoring fund, prior to payment to the Developer or subdivider. The term of any reimbursement agreement shall be established by the City Council and shall be based upon the reasonable expectations of the development of benefitted properties or the use of the Public Improvement by the benefitted properties; provided, however, that the maximum term of any reimbursement agreement shall be for a period of twenty (20) years.

If, during the period following the formation of the Reimbursement District, any person records a final map (subdivision, parcel, consolidation or financial

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map) or applies for a building permit on a lot for which a lien for Public Improvements has been established in accordance with this Ordinance, and such person or his predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the filing of the final map or the issuance of the building permit. Payment shall not be required, however, in connection with building permits having a total improvement value of twenty thousand dollars (\$20,000) or less, unless the building permit is for improvements which will ultimately use the Reimbursement District's improvements. Permits for improvements which are modifications or additions to existing single family residential structures shall not be subject to payment of lien under these reimbursement proceedings. All liens shall include a principal charge plus the annual six (6) percent simple interest rate calculated from the date of acceptance of the Public Improvements by the City or City Council's approval of the Reimbursement District, whichever occurs later.

(l) Obligation of Developer or Subdivider to Claim Moneys.

All moneys collected under the provisions of this Chapter shall be deposited by the City Treasurer into an appropriate fund established for the collection of funds and the monitoring of a particular Reimbursement District. The City Auditor shall refund to the person or persons who paid for the improvements for which the liens were collected, or to their assignees, all moneys so collected.

The City shall notify the Developer of the existence of moneys deposited in this fund. No funds may be reimbursed to the Developer until all costs included in the Reimbursement District have been verified by audit. The notice shall be mailed to the address contained in the reimbursement agreement and no further inquiries shall be required by the City. If any money remains on deposit with the City without being claimed by the party rightfully entitled to it within three (3) years after notice has been made as provided in Section 62.0208(l), the money shall be forfeited to the City, and it shall be transferred to the general fund of the City.

(Amended 1-6-1992 by O-17725 N.S.)

§62.0209 Centre City Review Committee

- (a) There is hereby established a Centre City Review Committee. The City Manager shall, pursuant to administrative regulations, appoint from among City staff and from appropriate City owned corporations, a representative

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group of persons who will comprise the committee.

- (b) The committee shall be advisory to the City Manager, City Engineer, and the Development Services Director in matters regarding improvements or encroachments within the public right-of-way of Centre City whenever such improvements are subject to the provisions of the Urban Design Program, including but not limited to the following:
 - (1) Light standards.
 - (2) Sidewalk pavement.
 - (3) Street landscaping.
 - (4) Sidewalk cafes.
 - (5) Pushcarts.
- (c) The committee shall meet at such time and place as necessary for the conduct of its business and as often as required by administrative regulation to carry out its duties.

NOTE: The provisions of this Section shall terminate and be of no further force and effect after one year from the effective date of implementation unless the City Council shall by ordinance extend its operation.

(Amended 7-25-1994 by O- 18088 N.S.)

§62.0210 Unauthorized Public Improvements Prohibited

It is unlawful to do, cause to be done, or maintain any public improvement contrary to this Division without first obtaining a permit, City contract or franchise authorizing the public improvement.

(“Unauthorized Public Improvements Prohibited” added (portions previously contained in former Sec. 62.01039a)) 8-10-1993 by O-17958 N.S.)